

BEFORE THE BOARD OF OUTFITTERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.171.401 fees, 24.171.604) ON PROPOSED AMENDMENT
emergency guide license, and)
24.171.2301 unprofessional conduct)

TO: All Concerned Persons

1. On July 3, 2008, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Outfitters (Board) no later than 5:00 p.m., on June 27, 2008, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsout@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.171.401 FEES (1) remains the same.

(a) New resident outfitter application and license. This fee includes the following costs, but does not include fees related to operations plan.	\$1000 <u>1300</u>
(i) application processing	300 <u>350</u>
(ii) examination	400 <u>150</u>
(iii) investigation	300 <u>400</u>
(iv) resident license	300 <u>400</u>
(b) Application for amendment to resident outfitter license. This fee includes the following costs:	400 <u>450</u>
(i) application processing	300
(ii) examination	400 <u>150</u>
(c) Renewal of outfitter license	
(i) resident outfitter annual license	300 <u>375</u>
(ii) resident outfitter inactive status	450 <u>200</u>
(d) New operations plan	
(i) review and processing	125
(ii) equipment inspection	300 <u>375</u>
(e) remains the same.	

(f) Annual fee for each additional hunting camp, added after January 1, 1999, and located beyond a 100-mile radius of the outfitter's base of operations and that is in a Department of Fish, Wildlife, and Parks administrative region other than the region containing the outfitter's base of operations meeting the criteria in 37-47-318, MCA, must be paid at the time the camp is approved for inclusion in the outfitter's operations plan.	5000
(g) and (h) remain the same.	
(i) Resident guide or resident professional guide license effective until December 31, 2008	
(i) resident guide renewal	400
(ii) (i) resident original guide license	100
(iii) (ii) resident temporary guide license	100
(j) Resident guide or resident professional guide license effective January 1, 2009	
(i) resident guide license	150
(ii) resident emergency guide license	150
(j) through (n) remain the same but are renumbered (k) through (o).	

AUTH: 37-1-131, 37-1-134, 37-47-201, 37-47-306, MCA

IMP: 37-1-134, 37-1-141, 37-47-304, 37-47-306, 37-47-307, 37-47-308, 37-47-310, 37-47-316, 37-47-317, 37-47-318, MCA

REASON: The board determined it is reasonably necessary to increase fees to comply with the provisions of 37-1-134, MCA, and keep the board's fees commensurate with program costs. The department, in providing administrative services to the board, has determined that unless the fees are increased as proposed, the board will have a shortage of operating funds by FY 2008-2009. The board estimates increasing fees as proposed will allow for a total sustainable budget of ten to 12 years before needing another fee increase. The board last increased fees in 2000, based on a similarly estimated ten-year operating budget.

The board has previously approved additional camps for inclusion in outfitters' operations plans then had difficulty collecting the fees. The amendment to (1)(f) clarifies that the fee must be paid before the outfitter is authorized to use the camp. The board is eliminating the resident guide renewal fee because the board no longer renews guide licenses, but instead requires annual submission of a new application to maintain licensure. The board is proposing different effective dates for the guide fee increases to avoid raising guide fees in the middle of hunting season and to avoid licensure delays during the season for guides who submit incorrect fees.

It is anticipated that the average fee increases will be 25 percent for outfitters, 50 percent for guides, and 50 percent for new outfitter applicants with a cumulative annual revenue increase of \$271,725.

The board estimates the following number of affected licensees and the corresponding increases in annual revenue:

Outfitter license application fee: 38 licensees with \$114,000 in revenue.

Outfitter exam fee: 14 licensees with \$700 in revenue.

Active outfitter renewal: 657 licensees with \$49,275 in revenue.

Inactive outfitter renewal: 61 licensees with \$3050 in revenue.

New operation plan application fee: 38 licensees with \$2850 in revenue.

Guide license applications: 2037 licensees with \$101,850 in revenue.

24.171.604 EMERGENCY GUIDE LICENSE (1) and (2) remain the same.

(3) A guide applicant may only be endorsed one time under this emergency guide license rule on account of not having proof of current first aid certification.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-201, 37-47-301, 37-47-303, 37-47-307, MCA

REASON: The board is amending this rule to limit emergency guide endorsement so applicants may not avoid submitting proof of current first aid certification under ARM 24.171.602 by repeatedly obtaining emergency guide licenses.

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT

(1) through (1)(b) remain the same.

(c) not provide services or allow services to be conducted by a supervised guide or professional guide to clients outside the boundaries of ~~his or her~~ the outfitter's approved operations plan;

(d) through (2)(a) remain the same.

(b) not make agreements with clients concerning monetary consideration or services offered, or collect fees from clients, without the express consent of the supervising outfitter; and

(c) not provide services to clients who have not been specifically referred to the guide or professional guide from the endorsing outfitter; and.

~~(d) when advertising guiding services, shall clearly designate the license number of the guide, and the name, address, and telephone number of the endorsing outfitter.~~

(3) through (3)(d) remain the same.

(e) not use ~~any narcotic drug, alcohol, or any other drug or substance~~, to the extent that the use impairs the user physically or mentally, while engaged by a client;

(f) remains the same.

~~(g) not conduct a licensed function that is not authorized and listed on the licensee's license;~~

(h) through (s) remain the same but are renumbered (g) through (r).

AUTH: 37-1-131, 37-1-319, 37-47-201, MCA

IMP: 37-1-312, 37-47-341, MCA

REASON: It is reasonable and necessary to amend this rule to eliminate redundancies and substitute gender neutral for gender specific terms. The board is deleting (2)(d) as redundant and inconsistent with (2)(a) and (3)(o). Subsection (3)(e) is being amended to not unnecessarily duplicate provisions in 37-1-316, MCA. Subsection (3)(g) is being deleted because it is redundant with (3)(n). The authority

cites are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsout@mt.gov, and must be received no later than 5:00 p.m., July 11, 2008.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.outfitter.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Outfitters maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all Board of Outfitters administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsout@mt.gov, or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Lorraine Schneider, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OUTFITTERS
LEE KINSEY, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 2, 2008